IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

FIRST APPEAL NO.2862 OF 2006

Smt.Leelavati Devi Wd/o Shri
Ramdas Kandu .. Appellant.
Vs.
Municipal Corporation for
Greater Bombay & Ors. .. Respondents.

Mr.C.G.Gavanekar i/b Mr.Sunil Singh for the appellant.
Mr.J.J.Xavier for the respondent-Corporation.

CORAM : D.B.BHOSALE, J.
DATED : 14TH NOVEMBER, 2006

P.C.:

. Heard learned counsel for the appellant and the respondent-Corporation.

2. Admit. By consent of the learned counsel for the parties the appeal is taken up for hearing forthwith. Mr.Xavier, learned counsel waives service for the respondent-Corporation.

3. The appellant-plaintiff had filed the suit seeking declaration that the notice issued by defendant no.1 dated 5.7.2003 under section 394(4) of the Mumbai Municipal Corporation Act, 1888 is illegal and cannot be enforced in respect of the suit premises. It appears that neither the Corporation nor defendant no.2 - MHADA had filed written statement.

It further appears that the suit was dismissed on some technical grounds. In view thereof both the learned counsel for the parties have fairly stated that the reasons need not be recorded for setting aside the impugned judgment and they have agreed for the following order:

(a) The impugned judgment dated 7.8.2006 is quashed and set aside.

(b) The trial Court shall allow the Corporation and MHADA to file their written statements within eight weeks from the date of receipt of this order and proceed to hear the suit afresh after allowing both the sides to lead evidence/additional evidence, if any, and decide the same as expeditiously as possible and preferrably within a period of six months from the date of receipt of this order. Interim order that was running pending the suit shall remain operative till disposal of the suit. The parties are directed to appear before the trial Court on 30th November, 2006 at 11.00 a.m. and produce a copy of this order on or before the said date. The appeal is disposed of. No costs.

(D.B.Bhosale, J.)